



UNITED STATES
PATENT AND
TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY
AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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In re Application of :
Corey S. Goodman et al :
Serial No.: 08/971,172 : PETITION DECISION
Filed: November 14, 1997 :
Attorney Docket No.: B98-006-2 :

This is a decision on the petition under 37 CFR 1.181, filed January 30, 2002 (Certificate of Mailing dated January 14, 2002), to Withdraw the Finality of the last Office action. The delay in acting on this petition is regretted, but was unavoidable due the delay in the Office of Petitions in acting on another of applicants' petitions.

A review of the file history is set forth in the petition decision mailed by the Office of Petitions on May 1, 2002, and is not repeated here. As noted therein, a Notice of Appeal was filed by applicants on January 10, 2002 (received on February 11, 2002). This petition was filed on January 14, 2002. Applicants' petition claims that the examiner relied on a new reference in the last (Final) Office action, including new creation dates and other information. A review of the last Office action, mailed October 10, 2001 and the Office action mailed March 27, 2001, shows that the same rejection under 35 U.S.C. 102(a) was set forth in each Office action. It also shows that the same reference was relied on and gives the correct date of creation of the sequence and provides a copy thereof which also shows the date of creation. Thus the reference applied in the Final Office action of which applicants complain was not new, was available to applicants and was addressed in the reply to the Office action of March 27, 2001. The application or interpretation of the reference did not differ in the Final Office action compared to the previous Office action. In view thereof, the Finality of the Office action was proper.

Applicants' petition under 37 CFR 1.181 is **DENIED**.

Applicants remain under obligation to file an Appeal Brief in view of the Notice of Appeal received February 11, 2002, within the time period set in 37 CFR 1.192(a), or as may be extended under 37 CFR 1.136(a).

The application will be forwarded to the examiner for consideration of the amendment and argument filed January 30, 2002 (Certificate of Mailing dated January 14, 2001).

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, Washington, D.C. 20231, or by telephone at (703)308-3824 or by facsimile transmission at (703) 305-7230.

A handwritten signature in black ink, appearing to read "Bruce M. Kisliuk", with a stylized flourish at the end.

Bruce M. Kisliuk
Director, Technology Center 1600